

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING**

MICHAEL DANIEL BOWMAN,

Plaintiff,

v.

**Criminal Action No. 5:19-CV-255
(BAILEY)**

**MARSHALL COUNTY COMMISSION;
JOSEPH R. CANESTRARO, Assistant
Prosecuting Attorney, Marshall County
Prosecutor's Office; RHONDA WADE,
Prosecuting Attorney, Marshall County
Prosecutor's Office,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James P. Mazzone [Doc. 7]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Mazzone for submission of a proposed report and recommendation ("R&R"). Magistrate Judge Mazzone filed his R&R on September 25, 2019, wherein he recommends plaintiff's Complaint [Doc. 1] be dismissed as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B) and that plaintiff's Motion for Leave to Proceed *in forma pauperis* [Doc. 2] be denied as moot.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140,

150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v. Ridenour***, 889 F.2d 1363, 1366 (4th Cir. 1989); ***United States v. Schronce***, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Mazzone's R&R were due no later than October 12, 2019. To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the Report and Recommendation [Doc. 7] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, the plaintiff's Complaint [Doc. 1] is **DISMISSED** and the plaintiff's Motion for Leave to Proceed *in forma pauperis* [Doc. 2] is **DENIED AS MOOT**. Additionally, the plaintiff's Motion of Joinder [Doc. 8] is hereby **DENIED AS MOOT**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein and to mail a copy to the *pro se* plaintiff.

DATED: October 16, 2019.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE